IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 20902 of 1998

Between:

1 Trinadha Sahu, S/o Magatha Sahu, R/o Gotlabhadra Village,
Gurupur Talu, Orissa State.
2 Chandrasekhara Sahu, S/o Duryodhana Sahu, R/o Gotlabhadra Village,
Gurupur Talu, Orissa State.

..... PETITIONERS

AND

1 The Commissioner of Survey and Settlements & Land Records,
State of Andhra Pradesh, Station Road, Hyderabad-1
2 Director of Settlements of State of Andhra Pradesh, Hyderabad.
3 The Deputy Collector, Tribal Welfare and Settlement Officer,
Elwinpeta, Vizianagaram District.
4 The District Collector, Vizianagaram.
5 The Mandal Revenue Officer, Gummalakshmipuram, Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order, or direction more particularly one in the nature of a Writ of Mandamus, directing the Respondents 1 to 3 to issue Ryotwari Patta to these petitioners for the lands covered by the C.S.S. and L.R.s case No.L3/53/88 which was decided by the 1st Respondent on 4-9-1997, by setting aside the said order of the 1st Respondent, declaring that the order is highly, arbitrary, improper, contrary to law, violative of the Fundamental rights and the Principles of natural justice.

For the Petitioners: MR.D.RAMALINGA SWAMY, Advocate

For the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

The petitioners filed this writ petition seeking to declare the order passed by the first respondent-Commissioner of Survey and Settlements and Land Records, in CCS & LR's Case No.L3/53/88, dated 04-09-1997, as arbitrary, improper and contrary to law and to direct respondent Nos.1 to 3 to issue a Ryotwari patta to them in respect of the lands covered in the said Case.

The petitioners claim to have been in possession and enjoyment of the lands in question since time immemorial. They state that originally the lands were situated within the Estate of Kurupam, and the officials of Kurupam Zamindar executed some cowles in their favour in respect of the said lands. After abolition of the Estate, they have been paying cist to the Government under proper receipts. While so, the petitioners state, on the advent of the A.P. (Scheduled Areas, Ryotwari Settlement) Regulation, 1970 (Regulation II of 1970) (for short "the Regulation") on 03-03-1970, the third respondent-Settlement Officer conducted a suo-motu enquiry under Section 9 of the Regulation and passed an order dated 28-9-1976 in S.R. No.9/4685/73 and 9/479/73 disallowing the issue of Ryotwari Patta to the petitioners herein on the ground that Exs.R.1 to R.4 produced by them were not sufficient to prove their valid title and continuity of occupation and enjoyment over the lands in question. Aggrieved by the said order, the petitioners filed an appeal in A.P. No.226 of 1976 before the second respondent-Director of Settlements, who allowed the appeal by order dated 23-02-1983 directing issue of Ryotwari patta in favour of the petitioners. Thereafter, against the said appellate order, the fifth respondent-Mandal Revenue Officer, with a long delay of 4 years and 3 months, filed further appeal in CSS & LR's Case No.L3/53/88 before the first respondent, who by the impugned order allowed the appeal quashing the order passed by the second respondent and restoring the

order passed by the third respondent. Assailing the impugned order as erroneous, the petitioners filed this writ petition.

A counter-affidavit is filed on behalf of respondent Nos.4 and 5 denying the allegations made by the petitioners in the affidavit filed in support of the writ petition. It is stated that the petitioners were denied grant of Ryotwari patta, as they could not prove their right and possession over the lands in question in the suo-motu enquiry conducted by the third respondent under Section 9 of the Regulation II of 1970. It is stated that the cist receipts, the cowles and a copy of judgment marked by the petitioners before the Settlement Officer as Exs.R.1 to R.4, do not substantiate the title and possession of the petitioners over the lands in question. It is further stated that Ex.R.1-Eksal Cowl, dated 11-7-1907 said to have been granted by the Officials of the Estate, does not bear the office seal or the signature of the Estate Authorities and does not contain the total extent and other details of the lands covered therein. Likewise Ex.R.2-Cowle dated 26-6-1996 does not contain any details of the lands covered therein, and the cist receipts in Ex.R.3 do not represent the lands in question. It is also stated that Ex.R.4 is a public copy of the judgment in O.S. No.2/1941 on the file of the Agency Munsiff in Parvathipuram and the schedule lands mentioned therein do not relate to the lands in question. Accordingly, it is stated, the Settlement Officer had rightly rejected the claim of the petitioners herein. It is stated that though the petitioners got an order in their favour before the Director of Settlements in A.P. No.276 of 1976, the same was quashed by the first respondent-Commissioner by the impugned order dated 04-9-1997, restoring the order of the Settlement Officer, on the ground that the petitioners herein did not satisfy the requirements under the first proviso to Section 9 of the Regulation II of 1970 relating to the proper induction and possession with adequate documentary evidence. It is stated that the impugned order is passed in accordance with law and the same cannot be questioned. Thus, it is prayed that the writ petition be dismissed.

Heard the leaned counsel for the petitioners and the learned Government Pleader for Revenue appearing on behalf of the respondents, perused the orders passed by respondent Nos.1 to 3 and the documents relied upon by the petitioners in support of their case.

The petitioners, to substantiate their title and possession over the lands in question and for their entitlement to Ryotwari patta, have relied upon the documents i.e. Exs.R.1 to R.4, which they marked before the Settlement Officer. Ex.R.1 is purported

to be an Eksal Cowle, dated

11-7-1907 granted by the Kurupam Estate in favour of Sri Vaddi Kalya Sahu for Fasli 1317. The Settlement Officer did not place reliance on it on the ground that it does not bear the signature or seal of the Estate Authority, and that it does not contain even the details of the land under the cowle. Ex.R.2 is purported to be yet another cowle executed on

26-6-1906 by Sri Gowd Deenabandu and Biddika Byragi, Mustadars of Chemuduguda in favour of Sri Vaddi Kaliya Sahu for Fasli 1316 for the lands locally known as Bendhamadi Karijore and the dry plots situated on either side of the Jore. No reliance was placed on it by the Settlement Officer, since it does not relate to the lands in question. Ex.R.3 is a bunch of receipts showing the payment of cists for some faslies during F.1320 to F.1384. Some of the receipts were issued by Sri Telog Govindu and Biddike Balaram Naidu in token of payment of cists by Sri Kaliya Sahu for some faslies for the lands situated in Chemuduguda, some receipts by the Jayapuram Estate in token of payment of cists by Sri Kaliya Sahu for the lands situated in Gotlabhadra village, and some receipts by the Kurupam Estate in token of payment of cists by Sri Vaddi Magata Sahu, Duryodhana Sahu. According to the Settlement Officer, none of these receipts contain details of the lands and that no evidence was adduced to prove that these receipts relate to the lands in question. Ex.R.4 is a public copy of the judgment in O.S. No.2 of 1941 on the file of the Agency Munsiff, Parvatipuram, dated 20-12-1941, which according to the Settlement Officer, is not helpful to the case of the petitioners herein, inasmuch it does not relate to the lands in question.

Inasmuch as the1st respondent-Commissioner as well as the 3rd respondent-Settlement Officer in their respective orders gave cogent and convincing reasons in holding that the petitioners are not entitled to Ryothwari patta, for the documents i.e. Exs.R.1 to R.2 relied upon by them did not substantiate their claim to prove their title and possession over the lands in question, and since the 2nd respondent-Director of Settlements in his order dated 23-02-1983, did not record the document-wise findings and reasons for differing from the view taken by the Settlement Officer in his order dated 28-09-1976 on Exs.R.1 to R.4, the contention of the petitioners that the impugned order is illegal and erroneous, cannot be sustained. Therefore, I see no reason to interfere with the impugned order.

In the above view of the matter, the writ petition has no merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J

Date: 01-03-2004

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Survey and Settlements & Land Records,
State of Andhra Pradesh, Station Road, Hyderabad-1
2 The Director of Settlements of State of Andhra Pradesh, Hyderabad.
3 The Deputy Collector, Tribal Welfare and Settlement Officer,
Elwinpeta, Vizianagaram District.
4 The District Collector, Vizianagaram.
5 The Mandal Revenue Officer, Gummalakshmipuram, Vizianagaram District.

6 Two CCs. to the Government Pleader for Revenue, High Court
Buildings, A.P., Hyderabad (OUT).

7 Two CD copies.

*Form-NIC-OGS/WP{**MN**}*